

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  U S WEST COMMUNICATIONS, INC., n/k/a QWEST CORPORATION, AND MCIMETRO ACCESS TRANSMISSION SERVICES, LLC	DOCKET NO. NIA-99-35
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**ORDER DOCKETING NEGOTIATED INTERCONNECTION AGREEMENT FOR  
FURTHER REVIEW**

(Issued September 10, 2004)

On August 2, 2004, MCImetro Access Transmission Services, LLC (MCI), filed an application with the Utilities Board (Board) requesting the Board approve an amendment to a negotiated interconnection agreement between MCI and Qwest Corporation, f/k/a U S West Communications, Inc. (Qwest), and a Qwest Platform Plus® (QPP) Master Service Agreement between the two companies. The amendment would eliminate the unbundled network element platform (UNE-P) and would implement a batch hot cut process and discounts. The amendment is to an interconnection agreement between the two companies previously approved by the Board in Docket No. NIA-99-35. The amendment and master agreement have been identified with the same docket number.

The amendment filed by MCI is identical to an amendment filed for Board approval on July 27, 2004. No objections or comments were filed concerning the amendment and it was approved under the provisions of 199 IAC 38.7(4)"d" on

September 6, 2004. Since the amendment has been approved, it will not be addressed in this order.

Pursuant to 199 IAC 38.7(4)"b," notice of the amendment and Master Service Agreement was published on the Board's Web site. Any comments or objections by interested parties were to be filed by September 1, 2004.

On August 16, 2004, Qwest filed a motion to dismiss the application, contending that the Master Service Agreement is not an interconnection agreement subject to Board review. Qwest argues that the Master Service Agreement does not fall within Section 252 of the Federal Telecommunications Act<sup>1</sup> and is therefore not subject to Board review or approval.

On August 26, 2004, AT&T Communications of the Midwest, Inc., and TCG Omaha, Inc. (collectively AT&T), filed a response to the MCI application. AT&T states that it does not oppose the two agreements, but disagrees with Qwest that the Master Service Agreement is not subject to Board review and approval.

On August 30, 2004, MCI filed a response to Qwest's motion to dismiss noting that the services covered by the Master Service Agreement consist primarily of local switching and shared transport network elements in combination with certain other services. MCI argues that because the agreement creates an ongoing obligation pertaining to the manner in which Qwest will provide unbundled network elements, the parties have an obligation to file the agreement with the state commission so that the state can determine whether the agreement discriminates

against a telecommunications carrier not a party to the agreement and whether approval is consistent with the public interest, convenience, and necessity as described in 47 U.S.C. § 252(e)(2)(A).

On August 31, 2004, AT&T filed a response to Qwest's motion to dismiss. AT&T argues that the Master Service Agreement is an interconnection agreement adopted by negotiation that must be filed with the Board pursuant to Section 252 of the Federal Telecommunications Act.

The Board will docket the amendment and the Master Service Agreement pursuant to paragraph 199 IAC 38.7(4), which provides that the Board will issue an order docketing a negotiated interconnection agreement within 40 days of the date of filing of the agreement if there are objections or comments filed. Although it appears that there are no objections or comments concerning the substance of the Master Service Agreement, the Board will nonetheless docket the application and agreements filed by MCI on August 2, 2004, to consider the issue raised by Qwest regarding the necessity of filing the agreement.

It appears there are no disputed issues of fact, so a hearing will not be required. To allow for a full review of the legal issues, the Board will establish a date for filing briefs addressing the issue of whether the Master Service Agreement is a negotiated interconnection agreement required to be filed pursuant to 47 U.S.C. § 252. The Board will then issue its decision within the 90 days allowed under the

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<sup>1</sup> 47 U.S.C. § 252.

Board's rules. If any party believes there is a disputed issue of material fact, the party should file an appropriate pleading to request a hearing.

**IT IS THEREFORE ORDERED:**

1. The application for approval of the Master Service Agreement filed by MCImetro Access Transmission Services, LLC, on August 2, 2004, is docketed for further review, pursuant to 199 IAC 38.7(4)"b." The matter will be identified as Docket No. NIA-99-35.
2. On or before September 15, 2004, any party asserting that a hearing is necessary in this matter shall file a request for hearing. The request shall specify the alleged disputed issues of fact and explain why the issues are material.
3. Briefs addressing the issue of whether the Master Service Agreement is a negotiated interconnection agreement required to be filed pursuant to 47 U.S.C. § 252 shall be filed on or before September 24, 2004.

**UTILITIES BOARD**

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/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 10th day of September, 2004.